

PUBLIC LAW REVIEW

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COMMENTS – *Fiona Wheeler*

Appropriations and the legislative process 173

“Necessity” in the eye of the beholder: Leaving constitutional questions undecided 177

S v Secretary, DIMIA – Common law claims against the Commonwealth and section 39B(1) of the Judiciary Act 182

ARTICLES

The statutory protection of rights and parliamentary sovereignty: Guidance from the United Kingdom? – *Geoffrey Lindell*

This article examines statutory mechanisms adopted in the United Kingdom for protecting rights derived from its membership of the European Union and the *European Convention on Human Rights*. Despite its interpretative character, the first mechanism considered has enabled British courts to “disapply” legislation that is inconsistent with earlier legislation notwithstanding the normal rule in favour of the implied repeal of legislation. An attempt is made to explain this development and its consistency with parliamentary sovereignty. The second mechanism authorises the courts to declare legislation to be incompatible with a protected right even though the legislation is not invalid. The article considers whether both mechanisms can be adopted in Australia to protect human rights and other rights. This includes whether such declarations can be granted by courts exercising federal jurisdiction given the concept of a “matter” which conditions the exercise of such jurisdiction under Ch III of the Australian *Constitution*. 188

So far no good: The regulatory failure of criminal racial vilification laws in Australia – *Dan Meagher*

This article considers the efficacy of the two main legislative models in Australia which make racial vilification a crime. To this end, it considers whether the laws are compatible with the protection and promotion of freedom of speech; whether they sit comfortably within the existing criminal law frameworks; and whether the text of the offences is sufficiently clear and precise. It considers that the current models are fundamentally flawed and ought to be repealed, arguing, instead, for a particular kind of penalty enhancement statute. 209

BOOK REVIEWS – *Janet McLean*

War Law – International Law and Armed Conflict by Michael Byers 233

DEVELOPMENTS 237

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